

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #10	CCRB Case #: 202007121	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 08/03/2019 8:47 PM	Location of Incident: Grand Concourse and East 192nd Street	Precinct: 52	18 Mo. SOL 2/3/2021	EO SOL 9/20/2021	
Date/Time CV Reported Mon, 10/26/2020 1:23 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 10/26/2020 1:23 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Patricia Wojnicki	12488	935486	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Pedro Lezcano	17113	959752	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Patricia Wojnicki	Force: Police Officer Patricia Wojnicki used physical force against § 87(2)(b)	
B.POF Patricia Wojnicki	Abuse: Police Officer Patricia Wojnicki refused to provide her name to § 87(2)(b)	
C.POF Patricia Wojnicki	Abuse: Police Officer Patricia Wojnicki refused to provide her shield number to § 87(2)(b)	

Case Summary

On October 26, 2020, § 87(2)(b) filed this complaint with the CCRB by phone using the call processing system.

On August 3, 2019, at approximately 8:47 p.m., in the vicinity of Grand Concourse and East 192nd Street in the Bronx, § 87(2)(b) was riding his bicycle when he was pulled over by PO Patricia Wojnicki and PO Pedro Lezcano of the 52nd Precinct. PO Wojnicki and PO Lezcano informed § 87(2)(b) that he was recklessly operating his bicycle and would be receiving a summons. PO Lezcano wrote the summons and handed it to § 87(2)(b). § 87(2)(b) took the summons and threw it onto the ground. PO Wojnicki then grabbed § 87(2)(b)'s left arm told him he would be receiving another summons (**Allegation A: Force – Physical force**, § 87(2)(g)). § 87(2)(b) was temporarily placed into handcuffs and PO Lezcano wrote a summons for littering. § 87(2)(b) received the second summons and asked PO Wojnicki for her name and shield number. § 87(2)(b) alleged that he did not receive PO Wojnicki's name or shield number (**Allegation B: Abuse of Authority – Refusal to provide name**, § 87(2)(g) and **Allegation C: Abuse of Authority – Refusal to provide shield number**, § 87(2)(g)). § 87(2)(b) received two summonses as a result of this incident which have since been dismissed.

There were two body-worn camera videos (**BR 01** and **BR 02**, *videos*; **BR 03**, *summaries*). There was no other known video of this incident.

Findings and Recommendations

Allegation (A) Force: Police Officer Patricia Wojnicki used physical force against § 87(2)(b).

It was undisputed that PO Wojnicki and PO Lezcano stopped § 87(2)(b) while he was riding his bicycle and PO Lezcano issued him a summons for § 87(2)(b). After receiving the summons, § 87(2)(b) threw it on the ground, PO Wojnicki grabbed § 87(2)(b) by the arm, causing pain, handcuffed him, and PO Lezcano wrote a second summons for § 87(2)(b). § 87(2)(b) consistently stated (**BR 04** and **BR 05**) that he was stopped while riding his bicycle. § 87(2)(b) elaborated during his phone interview (**BR 05**) that he was informed that he was pulled over for riding without a light and without a helmet. After receiving the summons for § 87(2)(b), § 87(2)(b) said, "I'm not paying for that," and threw it onto the ground. PO Wojnicki came out of the police vehicle and grabbed § 87(2)(b) by the left arm and pulled him off his bicycle. PO Lezcano put § 87(2)(b) in handcuffs and wrote him a summons for littering. § 87(2)(b)'s summonses, § 87(2)(b) and § 87(2)(b) have been requested from IAB and will be added to the case file upon receipt. [§ 87(2)(b)] [§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) visited § 87(2)(b) after this incident and his medical records will be added to the case file upon receipt.

PO Wojnicki stated (**BR 08**) that she observed § 87(2)(b) ride his bicycle through a red light. PO Wojnicki and PO Lezcano pulled § 87(2)(b) over and he became upset when she or PO Lezcano explained the reason for the stop. § 87(2)(b) threw the summons on the ground and got onto his bicycle as if to leave. PO Wojnicki stated that she put § 87(2)(b) in handcuffs for safety purposes and to prevent him from fleeing. PO Wojnicki believed § 87(2)(b) was already upset because he threw the first summons on the ground.

PO Lezcano stated (**BR 09**) he observed § 87(2)(b) disregard a steady red light, not wearing a helmet, and riding on and off of the sidewalk on his bicycle. PO Lezcano and PO Wojnicki pulled § 87(2)(b) over and explained why he stopped him. § 87(2)(b) became aggressive, excited, irate and disturbed which manifested in § 87(2)(b) screaming, talking loud with spit coming out of his mouth, swearing, and putting his phone in PO Wojnicki's face with the flash on. PO Wojnicki told § 87(2)(b) he would get another summons after he threw the first one onto the ground. § 87(2)(b) started walking away toward his bicycle and PO Wojnicki

grabbed his hand and told him to stop. § 87(2)(b) was still behaving aggressive and excited, so PO Wojnicki and PO Lezcano decided to place him into handcuffs.

PO Lezcano mentioned in his memo book entry (**BR 10**) that he observed an L-shaped bulge in § 87(2)(b)'s pocket, however, PO Lezcano did not discuss this detail during his interview. The remainder of PO Lezcano's memo book entry was consistent with his statement.

PO Wojnicki's body-worn camera footage (**BR 01, video; BR 03, summary**) shows PO Wojnicki and PO Lezcano explaining to § 87(2)(b) that he was stopped because he went through a red light. PO Wojnicki also explains that he could be summonsed for not having a bell or a blinking light on the back of his bicycle. At 6:23 minutes, PO Lezcano hands § 87(2)(b) a summons and explains that it is for "reckless operation of a bicycle," for running a red light, and not having a flashing light on the back of his bicycle. § 87(2)(b) is sitting on top of his bicycle and asks the officers if they are stopping everyone who is riding without a light. § 87(2)(b) declares he is not going to pay for the summons as PO Wojnicki returns to the police vehicle.

At 7:04 minutes, PO Wojnicki exits the vehicle and says, "Excuse me, come here, get off that bike." § 87(2)(b)'s summons appears to be on the ground and his hands appear to be grabbing his handlebars of his bicycle. PO Wojnicki grabs § 87(2)(b)'s left bicep and then his left wrist. PO Lezcano walks to the right side of § 87(2)(b) and assists PO Wojnicki in handcuffing § 87(2)(b). PO Wojnicki tells § 87(2)(b) that he is getting another summons for littering.

§ 87(2)(g)

While he was handcuffed, PO Lezcano took § 87(2)(b)'s phone out of his hand and placed it into § 87(2)(b)'s pocket. § 87(2)(b) did not make any allegations regarding his phone or pockets, and PO Lezcano clarified during his interview (**BR 09**) that his hand did not enter § 87(2)(b)'s pocket when he placed the phone into it.

Patrol Guide procedure 221-01 (**BR 11**) states that force may be used when it is reasonable to ensure the safety of a member of the service or when it is reasonable to place a person in custody to prevent the escape from custody. Force must be reasonable under the circumstances. Members of service (MOS) should consider the nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject's violent history, presence of hostile crowd or agitators, and if the subject is apparently under the influence of a stimulant/narcotics which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Patricia Wojnicki refused to provide her name to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Patricia Wojnicki refused to provide her shield number to § 87(2)(b)

It was undisputed that PO Wojnicki did not provide § 87(2)(b) with her shield number. § 87(2)(g)

§ 87(2)(b) stated (**BR 05**) that after PO Wojnicki grabbed him by the arm he said, “You grabbed me off my bicycle you have no right to do that. I need your name and your badge number,” and she did not provide it or say anything.

PO Wojnicki initially stated (**BR 08**) that she did not remember whether she provided her shield number and after reviewing the body-worn camera, PO Wojnicki acknowledged that she did not provide her shield number, she only provided her name and command.

PO Wojnicki’s body-worn camera footage (**BR 01, video; BR 03, summary**) shows § 87(2)(b) asking for PO Wojnicki’s name and shield number at 10:11 minutes to which PO Wojnicki replies, “Okay.” PO Wojnicki explained (**BR 08**) that she did not provide § 87(2)(b) with her name and shield number at this point because she and PO Lezcano were still in the process of giving § 87(2)(b) his summons.

At 12:29 minutes, after § 87(2)(b) s handcuffs are removed, he says, “I want your name and your badge number.” PO Wojnicki says, “Right here.” § 87(2)(b) asks for a pen to write it down and then says he will use his phone when PO Lezcano tell him he cannot give him a pen. At 12:48 minutes, PO Wojnicki says, “You’re not going to take pictures of me, I’m sorry.” PO Wojnicki enters the passenger side of the police vehicle and says, “I’ll give you my name, come over here. My name is Officer Wojnicki from the 52nd Precinct.” PO Wojnicki then spells her last name for § 87(2)(b) says “good night,” and the video ends.

Although PO Wojnicki momentarily showed § 87(2)(b) her shield number when she said, “Right here,” she did not provide her shield number verbally and she walked away as soon as § 87(2)(b) took out his phone to document it, § 87(2)(g). PO Wojnicki explained during her interview (**BR 08**) that she did not allow civilians to take her photograph if they ask to. PO Wojnicki stated that it was her personal preference not to be photographed.

Patrol Guide procedure 203-09 (**BR 12**) states that officers are to courteously and clearly state their name rank, name, shield number and command to anyone who requests them.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 13**).
- PO Wojnicki has been a member of service for 16 years and a subject in four additional CCRB complaints § 87(4-b) § 87(2)(g)

There were no substantiations § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of January 5, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in relation to this incident (**BR 14**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 10

Investigator: Kelly Lyon Inv. Kelly Lyon 1/6/2021
Signature Print Title & Name Date

Squad Leader: Eric Rigie- IM Eric Rigie 1/6/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date